

Date of decision: 14-3-1996

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

Coram: S.K. KESHOTE, J
(14-3-1996)

Mr. D. G. Chauhan for the petitioner
Miss Sejal Mandavia for the respondents.

ORAL JUDGMENT:

Rule. Ms. Sejal Mandavia waives service of rule on

behalf of the respondents.

Ms. Sejal Mandavia for the respondents orally contested the petition. One of the contentions raised by her is that no legal or fundamental right of the petitioners has been infringed. It is a case of termination simpliciter of the services of temporary Government servants, and they have no right to continue on the post. On the other hand learned counsel for the petitioners contended that it is a case where juniors were retained whereas services of seniors have been terminated. It has next been contended that no notice has been given to the petitioners before terminating their services.

2. I have considered the submissions made by the learned counsel for the parties. It is not in dispute that the petitioners were appointed on fixed salary of Rs.295/per month. The petitioners are teachers. The petitioners were appointed in the month of June, 1993 and June 1994 respectively. Their services were terminated with effect from 13-10-1994. Admittedly the appointment of the petitioners was not made in the regular pay-scale notified for regular appointment. It was purely adhoc arrangement made, and they were paid consolidated salary. The petitioners have not produced even the order of appointment, and in absence of the same it is difficult to say what were the conditions of their appointment. In absence of the order of appointment produced on record, adverse inference deserves to be drawn and it may be a case of fixed term appointment which has come to an end by efflux of time.

3. Learned counsel for the petitioner has failed to point out any provision which requires notice to be given to the petitioners before terminating their services by respondent No.4. Termination has been made on 13th October, 1994. The present petition has been filed by the petitioners on 8th January, 1996, that is, after more than one year and two months, without there being any explanation for this delay. The petitioners have failed to establish how the persons named in para 6 of the writ petition are juniors to them. Decision in the case of State of Haryana vs. Pyarasingh, reported in 1992 (4) SCC 118 is of no help to the petitioners. Appointment on the post of Assistant Teacher was to be made after selection. Pending regular selection to be made, temporary appointments would have been made. Such temporary Government servants do not become permanent, by force of any rule. Merely by drawing consolidated salary for some time one does not acquire any legal right to continue on the post, much less right for regularization of service. I do find sufficient merits in the contention raised by Ms. Sejal Mandavia, learned

counsel appearing for the respondents, that none of the fundamental rights of the petitioners has been infringed.

4. In the result this writ petition fails and the same is dismissed. Rule discharged. No order as to costs.